

REMARKS/ARGUMENTS

The claims are 29, 31, 33, 35, 40, 44, 53-55, 65, 67, 70 and 72-84. Claims 53, 70 and 74-77 have been amended to improve their form or to better define the invention. In addition, claims 59, 69 and 71 have been canceled, and new claims 78-84 have been added. Support for the claims may be found, *inter alia*, in the disclosure at pages 14-15, 18-20, 23-26, 35-36 and 38-39, FIGS. 6-9 and 14-15 and the original claims. Reconsideration is expressly requested.

Claim 59 was rejected under 35 U.S.C. §112, first paragraph, in that the specification was said not to enable one of ordinary skill in the art to make an adhesive adhering to a back sheet of the diaper with a separation force of more than 0.05 N /cm² as recited in that claim.

In response, Applicants have canceled claim 59 in favor of new claim 84, submit the accompanying Declaration of Constanze Behrmann under 37 C.F.R. §1.132, and respectfully traverse the Examiner's rejection for the following reasons.

As set forth in 35 U.S.C. §112, the detailed description of the invention need only be in such full, clear, concise and exact terms so as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same. As evidenced by the accompanying Behrmann Rule 132 Declaration, any person skilled in the art would be able to vary the separation forces between any fastening tape and a corresponding back sheet in a fairly wide area. As indicated in the "Handbook of Pressure Sensitive Adhesive Technology" attached to the Behrmann Rule 132 Declaration, there are a huge number of different adhesives and mixtures of adhesives that a person skilled in the art might use in order to set the separation forces according to a certain value. It is just a matter of a few tests to compare a certain behavior at separation while testing some different adhesives or adhesive mixtures.

Applicants diaper as set forth in new claim 84 is not directed to a certain type of adhesive but rather to a certain separation force especially in combination with the shear-off securing component and the other features recited in new claim 84.

As set forth in the Behrmann Rule 132 Declaration, instructing a person skilled in the art to use an adhesive that would adhere to the back sheet of the diaper with a separation force of more than 0.05 N /cm² is all that a person would need to select a suitable adhesive that has a specified separation force in order to construct and use the diaper recited in Applicants' new claim 84 in which the pop-off securing fastener includes an adhesive layer comprising an adhesive with this property. Accordingly, it is respectfully submitted that the disclosure as originally filed is sufficiently enabling and that the Examiner has provided no evidence to the contrary, and Applicants respectfully request that the rejection under 35 U.S.C. §112, first paragraph, be withdrawn.

Claim 53 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite with respect to the phrase "optionally substantially." In response, Applicants have amended claim 53 to delete this phrase, thereby obviating the Examiner's rejection under 35 U.S.C. §112, second paragraph.

Claims 29, 31-33, 44, 53-55, 61, 64, and 66-77 were rejected under both 35 U.S.C. §§102(a) and (e) as anticipated under *Tanzer et al. U.S. Patent Application Publication No. 2003/0009144*.

Claim 65 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Tanzer et al.*, and claim 59 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Tanzer et al.* in view of *Cinelli et al. U.S. Patent Application Publication No. 2003/0212416*.

This rejection is respectfully traversed.

As set forth in claims 70, 74 and 76 as amended, and in new claims 78, 81, 82 and 84, Applicants' invention provides a fastening tape for a hygiene item, a method for closing a diaper, a strip material having a longitudinal direction of extent which can be divided by separating across the longitudinal direction of extent to form individual usages in the form of fastening tapes for a hygiene item, and a diaper having the fastening tape. Each of these claims recite various forms of pop-off securing fasteners including an adhesive layer. It is respectfully submitted that the primary reference to *Tanzer et al.* fails to disclose or suggest any free adhesive layer that is able to adhere to any back sheet. Therefore, it is respectfully submitted that claims 70, 74 and 76 as amended, new claims 78, 81, 82 and 84 and claims 40, 44, 53, 54, 55, 67, 79 and 83, which

depend directly or indirectly on one of these claims, are patentable over *Tanzer et al.*

The remaining reference to *Cinelli et al.*, cited against claim 59, simply disclosing one possibility of adhesives from a variety of adhesives. Because *Tanzer et al.* fails to disclose or suggest the use of a free adhesive layer, it is respectfully submitted that even if *Cinelli et al.* and *Tanzer et al.* were combined as suggested by the Examiner, one would still not achieve Applicants' diaper as set forth in new claim 84 because the adhesive of *Cinelli et al.* would be covered by some material and would not be able to interact with any back sheet of the diaper in order to close this diaper.

Moreover, it is respectfully submitted that *Cinelli et al.* would not be of any interest to a person skilled in the art because Applicants' invention as set forth in new claim 84 relates to the combination of shear-off and pop-off securing components with an adhesive that contributes a very certain and high enough separation force in order to assure that the overall system has improved closing properties, which it is respectfully submitted is nowhere disclosed or suggested by *Cinelli et al.*

With respect to the remaining claims 72, 73, 75, 77 and 80, it is respectfully submitted that neither *Tanzer et al.* nor *Cinelli et al.* discloses the features recited in those claims.

With respect to claim 72, it is respectfully submitted that neither *Tanzer et al.* nor *Cinelli et al.* discloses or suggests a fastening tape for a hygiene item having a plurality of spot-shaped carriers including at least one central spot having a spot edge situated within the carrier area defined by the spot-shaped carriers in combination with at least one edge spot having a spot edge situated at a top edge.

With respect to claim 73, it is respectfully submitted that neither *Tanzer et al.* nor *Cinelli et al.* discloses or suggests a fastening tape for a hygiene item having a plurality of spot-shaped carriers including at least one semicircular edge spot along a boundary of the carrier area.

Claim 75 as amended specifies a second area having a pop-off securing fastener, i.e. a free adhesive and that a selected second set of the plurality of spot-shaped carriers includes identical strip-shaped spots, claim 77 as amended specifies that a hook component on the edge section includes a plurality of

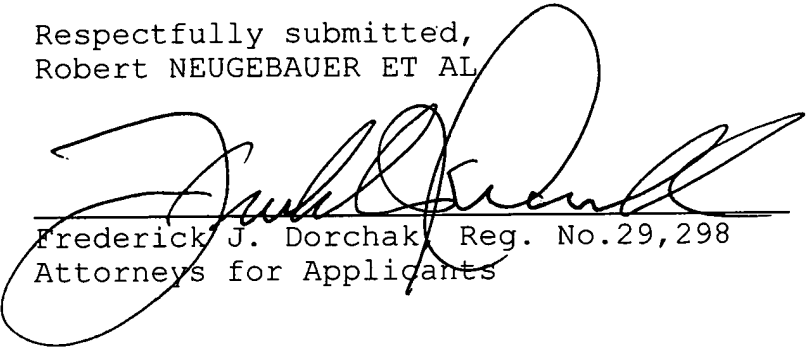
severed hooks as discussed at page 26, third full paragraph of Applicants' disclosure, and new claim 80 specifies that a selected set of the spot-shaped carriers comprises identical strip-shaped spots and a border of the carrier area near a separation in a machine direction coincides with a longitudinal tape edge. It is respectfully submitted that neither *Tanzer et al.* nor *Cinelli et al.* discloses or suggests these features. Accordingly, it is respectfully submitted that claims 72, 73, 75, 77 and 80 and claims 29, 31, 33, 35 and 65, which depend directly or indirectly on one of these claims, are patentable over the cited references.

In summary, claims 59, 69 and 71 have been canceled, claims 53, 70 and 74-77 have been amended and new claims 78-84 have been added. A check in the amount of \$880.00 is enclosed in payment of the fee for four (4) additional independent claims over those previously paid for. In view of the foregoing, it is respectfully requested that the claims be allowed and that this application be passed to issue.

Applicants also submit herewith a Supplemental Information Disclosure Statement.

Respectfully submitted,
Robert NEUGEBAUER ET AL

COLLARD & ROE, P.C.
1077 Northern Boulevard
Roslyn, New York 11576
(516) 365-9802


Frederick J. Dorchak, Reg. No. 29,298
Attorneys for Applicants

Enclosure:

Check in the amount of \$880.00
Declaration of Constanze Behrmann under 37 C.F.R. §1.132
Supplemental Information Disclosure Statement
Form PTO-1449 with seven (7) references

EXPRESS MAIL NO. EM 515 197 047 US

Date of Deposit: November 2, 2010

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10, on the date indicated above, and is addressed to the MAIL STOP RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


Kelly Espitia

R:\Patents\NNeugebauer Et Al-1 PCT\Preliminary Amendment in RCE.wpd